

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Ataya Hardwood LLC)
Dist. 5, Map 18, Control Map 18, Parcel 48.00, S.I. 000) Campbell County
S.I. 000 & 001)
Dist. 5, Map 39, Control Map 39, Parcel 6.00)
Farm Property)
Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued for market value purposes at \$379.26 per square foot or \$3,186,800 in total as follows:

Parcel 6.00

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$2,062,300	\$ -0-	\$2,062,300	\$515,571
USE	N/A	N/A	N/A	N/A

Parcel 48 - 000

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$620,500	\$ -0-	\$620,500	\$155,125
USE	N/A	N/A	N/A	N/A

Parcel 48 - 001

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$504,000	\$ -0-	\$504,000	N/A
USE	\$432,000	\$ -0-	\$432,000	\$108,000

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on March 1, 2006 in Knoxville, Tennessee. In attendance at the hearing were Bob Naeger for the appellant and Campbell County Property Assessor's representatives Clark Ford and Brandon Parten.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of 8,402.58 acres of mountain land in Campbell County utilized for timber production. Subject parcels are part of a contiguous 81,858 acre tract located in various counties in Tennessee and Kentucky.

The taxpayer contended that subject property should be valued at \$168.00 per acre or \$1,411,633.44 in total. In support of this position, the taxpayer introduced excerpts from three appraisal reports which valued the bare land at \$96.52, \$168.28 and \$8.06 per acre in

2003, 2004 and 2005 respectively. In each case, the appraisers derived the value of the bare land by deducting the value of the timber from the total indicated value. Thus, the indicated "bare land value" was for all practical purposes a residual value. The taxpayer also contended that the assessor's appraisals overstate the amount of pastureland on parcel 6.

The assessor contended that subject property should be valued at \$2,932,200 or \$348.96 per acre. In support of this position, Mr. Ford recommended no adjustments in value other than reclassifying 585.5 acres on parcel 6 from pasture to woodland. Mr. Ford essentially asserted that the taxpayer has taken a "myopic view" of subject land as having no utility or value aside from its timber. Mr. Ford introduced a spreadsheet summarizing sales he claimed support his contention of value.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued as contended by the assessor absent additional evidence from the taxpayer.

Since the taxpayer is appealing from the determination of the Campbell County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the appraisal reports relied on by the taxpayer cannot be adopted as the basis of valuation for at least two reasons. First, none of the appraisers were present to testify or undergo cross-examination. See *TRW Koyo* (Monroe Co., Tax Years 1992-1994) wherein the Assessment Appeals Commission ruled in pertinent part as follows:

The taxpayer's representative offered into evidence an appraisal of the subject property prepared by Hop Bailey Co. Because the person who prepared the appraisal was not present to testify and be subject to cross-examination, the appraisal was marked as an exhibit for identification purposes only. . . .

* * *

. . . The commission also finds that because the person who prepared the written appraisal was not present to testify and be subject to cross-examination, the written report cannot be considered for evidentiary purposes. . . .

Final Decision and Order at 2. Second, it is apparent that although the residual land values may be indicative of investment value, they do not reflect the "intrinsic and immediate

value” of the bare land. For example, the appraisers’ methodology resulted in concluded land values of \$96.52, \$168.28, and \$8.06 per acre in 2003, 2004 and 2005. The administrative judge finds that it strains credulity to argue that subject bare land had a value of only \$8.06 per acre on January 1, 2005 or that the bare land value varied so dramatically over such a short period of time.

The administrative judge finds that the taxpayer’s own exhibit (#1) illustrates the fallacy of such a methodology. The spreadsheet lists 21 comparables taken from the various appraisal reports. In 6 instances, the appraisers assigned no value whatsoever to the bare land. The remaining comparables were concluded to support bare land values ranging from \$13.00 to \$308.00 per acre and included sales from Tennessee, Alabama, North Carolina, Kentucky and West Virginia.

Based upon the foregoing, the administrative judge finds that except for the one adjustment recommended by Mr. Ford, the values set by the Campbell County Board of Equalization must be affirmed based upon a presumption of correctness.

ORDER

It is therefore ORDERED that the following values and assessments be adopted for tax year 2005:

Parcel 6.00

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$1,807,700	\$ -0-	\$1,807,700	\$451,925
USE	N/A	N/A	N/A	N/A

Parcel 48 - 000

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$620,500	\$ -0-	\$620,500	\$155,125
USE	N/A	N/A	N/A	N/A

Parcel 48 - 001

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$504,000	\$ -0-	\$504,000	N/A
USE	\$432,000	\$ -0-	\$432,000	\$108,000

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12

of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 10th day of March, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Bob Naeger
Billy Hicks, Assessor of Property